IN THE HIGH COURT OF MYSORE AT BANGALORE.

Notification No. R. Dis. 11 *of* 1932-33, *dated the* 31*st October* 1932.

Under the provisions of Part X of the Code of Civil Procedure, 1911, and with the previous sanction of the Government of His Highness the Maharaja of Mysore, the High Court has made the following amendments of Rules 39 (4) and (5) and 40 of Order XXI, Civil Procedure Code, 1911.

Substitute the following for rules 39 (4) and (5) of Order XXI, Civil Procedure Code.

Rule 39 (4).

"Such sum (if any) as the Judge thinks sufficient for the subsistence and cost of conveyance of the Judgment debtor for his journey from the court house to the civil prison and from the civil prison, on his release, to his usual place of residence together with the first of the payments in advance under sub-rule, (3) for such portion of the current month as remains unexpired, shall be paid to the proper officer of the Court before the Judgment debtor is committed to the civil prison and the subsequent payments (if any) shall be made to the officer in charge of the civil prison."

(5) "Sums disbursed under this rule by the decree holder for the subsistence and cost of conveyance (if any) of the Judgment debtor shall be deemed to be costs in the suit."

"Provided that the Judgment debtor shall not be detained in the civil prison or arrested on account of any sum so disbursed."

Substitute the following for rules 40 (1) *and* (2) *para* (1).

Rule 40 (1).

"When a Judgment debtor appears before the court in obedience to a notice issued under rule 37, or is brought before the court, after being arrested in execution of a decree for the payment of money, and it appears to the court that an insolvency petition has been presented by or against the Judgment debtor, or that Judgment debtor is unable from poverty or other sufficient cause to pay the amount of the decree, or if that amount is payable by instalments, the amount of any instalment thereof, the burden of proving the inability to pay being on the Judgment debtor. the court may upon such terms (if any) as it thinks fit, make an order disallowing the application for his arrest and detention, or directing his release, as the case may be."

Rule 40 (2) para 1.

"(2) Before making an order under Sub-rule (1), the court shall take into consideration any allegation of the decree holder touching any of the following matters, namely."

Insert after the proviso to Sub-Rule (5) of Rule (40):

"When the court sees fit to leave a Judgment debtor in the custody of an officer of the court and the Judgment debtor does not pay the costs incidental to such intermediate custody, it shall be competent for the court to require the decree holder, on pain of his application for arrest being disallowed, to pay into court such sum as the Judge deems sufficient to cover such costs including batta for process server, subsistence of the Judgment debtor and costs of conveyance, if any, and sums disbursed by the decree holder under this proviso shall be deemed to be costs in this suit."

(5)A. "During the temporary absence of the Judge who issued the warrant under rule 37 or 38, the warrant of committal may be signed by any other Judge of the same court or by any Judicial officer superior in rank who has jurisdiction over the same locality, or where the arrest is made on a warrant issued by the District Judge, the warrant of committal may be signed by any Subordinate Judge or Munsiff, empowered in writing by the District Judge in this behalf."

(6) "No Judgment debtor shall be committed to the civil prison or brought before the Court from the prison to which he has been committed pending the consideration of any of the matters mentioned in Sub-Rule (2) unless and until the decree holder pays into Court such sum as the Judge may think sufficient to meet the travelling and subsistence expenses of the Judgment debtor and the escort for the journey to and from the prison."

"Sub-rule (5) of rule 39 shall apply to such payments."

N. B. SRINIVASA IYENGAR,
Deputy Registrar,
Doing duty as Registrar.